

## Message Text

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ORIGIN EB-03

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66616  
DRAFTED BY EB:JMDERHAM  
APPROVED BY EB:JMDERHAM  
----- 058154  
R 080041Z NOV 75  
FM SECSTATE WASHDC  
TO AMEMBASSY LONDON

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STADIS/////////////////  
FOR DEPUTY ASSISTANT SECRETARY JULIUS L.KATZ

FOLLOWING REPEAT OTTAWA 4178 ACTION SECSTATE DATED 6 NOV 75  
QUOTE

LIMITED OFFICIAL USE OTTAWA 4178

POUCHED TO ALL CONSULS IN CANADA

E.O. 11652: NA  
TAGS: ENRG, CA, PINT, PFOR  
SUBJECT: INDIAN RIGHTS AND A MACKENZIE VALLEY GAS PIPELINE

STADIS

REF: A) STATE 257092; B) OTTAWA'S A-647, DTD OCT 10, 1975;  
:( OTTAWA 3700; D) OTTAWA 3741

1. SUMMARY; THE BERGER HEARINGS, THE NEB HEARINGS, AND NEGOTIATIONS  
WITH NATIVE PEOPLES TO SETTLE THEIR LAND CLAIMS ARE THE MAJOR HURDLES  
TO BE PASSED BEFORE THE MACKENZIE VALLEY PIPELINE CAN BE  
BUILT. THE CANADIAN GOVERNMENT HAS ASSIGNED A TOP NEGOTIATOR  
TO RTY TO RESOLVE THE LAND CLAIMS ISSUE WHICH IS CLOUDED BY UN-  
CERTAIN TITLE AND RADICAL AGITATION AMONG THE INDIANS. HOWEVER,  
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AS A LAST RESORT, THE GOC COULD APPROVE LEGISLATION TO PERMIT

CONSTRUCTION OF THE PIPELINE, IF IT THOUGHT IT NECESSARY TO DO SO.  
END SUMMARY.

2. EMBASSY IS SEEKING WRITTEN COMMENTS FROM GOC ON QUESTIONS  
RAISED REFTEL A. WHILE WE ARE PASSING FOR URGENT RESPONSE,  
ISSUES ARE COMPLEX AND SENSITIVE AND WE SUSPECT IT MAY  
BE SOME DAYS BEFORE GOC WILL BE ABLE TO DEVELOP COORDINATED  
POSITION. PENDING FORMAL REPLY FOLLOWING BACKGROUND INFO  
GLEANED FROM EMBOFF'S CONVERSATIONS WITH OFFICIALS OF  
DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT  
(IAND) WHICH SUPPLEMENTS THAT CONTAINED REFS B, C, AND D,  
MAY BE OF INTEREST.

3. THREE MAJOR HURDLES EXIST BEFORE GOC MAY PROCEED WITH  
PROCEDURAL ASPECTS DEALING WITH CONSTRUCTION OF MACKENZIE  
VALLEY GAS PIPELINE. THESE ARE THE BERGER HEARINGS,  
THE NEB HEARINGS AND INDIAN LAND CLAIMS. IAND OFFICIALS  
IN THEIR CONVERSATION MADE FOLLOWING POINTS RE INDIAN CLAIMS;  
A) IN RECENT PERSONNEL SCHUFFLE IN IAND FORMER ASSISTANT DEPUTY  
MINISTER A.D. HUNT HAS ASSUMED RESPONSIBILITY FOR NEGOTIATING  
LAND CLAIM SETTLEMENT WITH NATIVE PEOPLES AND E.M.R.  
COTTERILL, FORMER ASSISTANT NWT COMMISSIONER, HAS BECOME  
ASSISTANT DEPUTY MINISTER. HUNT'S RESPONSIBILITIES ARE LARGE,  
SINCE HE MUST SEEK TO NEGOTIATE WITH THE INDIAN TRIBES A  
SATISFACTORY SOLUTION TO THEIR CLAIMS TO TITLE OVER LAND  
WHERE PIPELINE WOULD BE BUILT. HE HOPES TO REACH A SETTLEMENT  
IN THE YUKON BY END OF MARCH. THEN HE WILL ADDRESS HIMSELF  
TO THE PROBLEM OF NATIVES IN THE NWT. THE LATTER NEGOTIATIONS  
COULD BE BIGGEST PROBLEM OF ALL, OR AT LEAST THE MOST  
DRAWN OUT FOR SEVERAL REASONS;

1) AS REPORTED IN REF AIRGRAM, CANADA'S RELATIONS WITH  
INDIANS GENERALLY GOVERNED BY TREATY, EXCEPT THAT IN NORTH  
VERY FEW TREATIES EXIST. IN FACT, THERE ARE ONLY TWO TREATIES  
IN THE ENTIRE AREA, NONE APPLYING IN THE YUKON, AND ONE OF  
THE TWO APPLIES FOR THE MOST PART TO INDIANS ALONG THE SIXTIETH  
PARALLEL (THESE TWO TREATIES ARE CALLED TREATY 8 AND TREATY 11,  
BOTH NEGOTIATED OVER 50 YEARS AGO).

2) TREATIES 8 AND 11 HOWEVER, HAVE NEVER BEEN FULLY IM-  
PLEMENTED, THROUGH FAILURE OF THE FEDERAL GOVERNMENT TO  
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FOLLOW UP ON CERTAIN OF THEPR KEY PROVISIONS. SPECIFICALLY, FEDERAL  
GOVERNMENT NEVER ASSIGNED INDIANS TO RESERVES; THEREFORE INDIANS  
CLAIM THEIR TITLE TO LAND HAS NEVER BEEN QUESTIONED. GOC, ON  
OTHER HAND, INSISTS IT HAS TITLE TO LAND, CLOUDED ONLY BY CURRENT  
RESPONSIBILITY TO SETTLE INDIAN COUNTER-CLAIMS THAT TREATIES MUST BE  
FULLY IMPLEMENTED.

3) INDIAN TRIBES THEMSELVES ARE DISORGANIZED AND FRAGMENTED,

WHICH WOULD SEEM TO BE GOOD FOR OTTAWA, EXCEPT THAT FRAGMENTATION IN PART CAUSED BY "SOUTHERNERS", MORE SPECIFICALLY BY MEL WATKINS, FORMER VERY ACTIVE NDP MEMBER AND LEADER IN ITS RADICAL "WAFFLE" GROUP BECAME OUSTER FROM PARTY. WATKINS HAS OBTAINED A LEAVE OF ABSENCE FROM HIS UNIVERSITY OF TORONTO POST AND IS EXHORTING AND ADVISING NATIVE PEOPLES TO RADICAL SOLUTIONS, ENCOURAGING THEM NOT TO GIVE IN AT ALL TO GOC EXCEPT ON THEIR OWN TERMS. HIS ACTIVITIES HAVE SPLIT NATIVE GROUPS AND HIGHLY SIGNIFICANT MEETING OF ALL INDIAN BROTHERHOODS WILL TAKE PLACE IN DECEMBER, WHERE DECISION WILL BE MADE ON COURSE TO BE FOLLOWED. IF RADICALS WIN CONTROL, SLEDDING WILL BE HEAVY FOR GOC: IF MODERATES WIN, GOC FORESEES RELATIVELY EASY SETTLEMENT WITH NATIVE PEOPLES.

4. HOWEVER, GOC HAS SOME CARDS UP ITS SLEEVE AS WELL. CANADIAN SYSTEM GENERALLY DOES NOT LEND ITSELF TO SETTLEMENT OF BROAD CLAIMS SUCH AS THIS BY COURT SYSTEM; RATHER GOC'S PREFERABLE OPTION IF NEGOTIATIONS FAIL, IS TO GO TO PARLIAMENT TO OBTAIN NECESSARY LEGISLATION WHICH WOULD SETTLE DISPUTE ACCORDING TO TERMS DRAWN UP BY PARLIAMENT. THUS PROCEDURALLY, PROBLEM WOULD END THERE, ALTHOUGH SCENARIO COULD ALSO BE FORESEEN WHERE NATIVES MIGHT RESENT SUCH SETTLEMENT AND THINK VIOLENCE WAS ONLY RECOURSE.

5. SECONDLY, ON POSITIVE SIDE, GOC HAS NATIVES IN GIANT PINCH: OFFER REASONABLE SETTLEMENT, PROVIDE PROTECTION VIA BERGER HEARINGS, AND THREATEN LEGISLATION. GOC WOULD END UP AS REASONABLE PARTY TRYING HARD TO SETTLE MATTER FAVORABLY FOR INDIANS AND LATTER WOULD LOSE MUCH SUPPORT. IN FACT, INDIAN OFFICIALS INFORMED EMBOFF THAT THIS IS WHAT GOC IS HOPING AND EXPECTING WILL HAPPEN. BY THIS SCENARIO, MORE MODERATE NATIVES WILL REALIZE LIMITED OFFICIAL USE

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THEY HAVE NOTHING TO GAIN BY CONTINUED OPPOSITION TO GOC EFFORTS AND WILL SETTLE AMICABLY.

6. IN CONCLUSION, GOC ANXIOUS TO SETTLE WITH INDIANS AND IS PROCEEDING UNDER DUE PROCESS OF LAW. THOSE IN CHARGE, HOWEVER, ARE NOT NECESSARILY IN CONTROL OF TIMETABLE, FOR CLAIMS ADJUDICATION COULD DEPEND ON INDIAN BROTHERHOOD LEADERSHIP AFTER DECEMBER MEETING, ON PACE OF BERGER HEARINGS, AND ON COMPLEXITY OF TASK FACED BY NEGOTIATOR HUNT, WHO HAS TWO HUGE TERRITORIES TO COVER AND DIFFICULT NEGOTIATIONS AHEAD OF HIM.  
PORTER  
UNQUOTE  
KISSINGER

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